

Address of the Democratic members of the legislature of the state of New-York.

[??] **Read and Circulate.**

ALBANY ATLAS—EXTRA— April, 1848. ADDRESS OF THE DEMOCRATIC MEMBERS OF THE LEGISLATURE OF THE STATE OF NEW-YORK.

The Democrats of the two Houses of the Legislature, pursuant to adjournment, met in the Senate Chamber on Wednesday, April 12th, 1848. The officers of the last caucus were re-appointed; the Hon. SAXTON SMITH of the Senate, President, and Messrs. Myers and Cobb, Secretaries.

Mr. Floyd of the Senate, from the committee to prepare and report an address, read the following, which was unanimously adopted:

To the Democracy of the State of New York:

In pursuance of a time-honored and well approved custom, the Democratic Members of the Legislature, before their final adjournment, ask leave to address their democratic fellow citizens throughout the state. The small minority in which they find themselves in the councils of the state commend more strongly than ever to their strict observance those usages of organization which have so often in times past enabled the democratic party to rise with renewed energy and efficiency from temporary defeat, and have carried it triumphantly through the most severe conflicts. In accordance with the custom for many years uniformly observed by those who have preceded them as representatives of the democracy at the state capitol, they assembled in joint caucus on the 21st day of February last, and by an unanimous vote passed the following resolutions:

Resolved, That it be recommended to the Democratic electors of each Assembly district in the State, to appoint a delegate to a Democratic State Convention for the purpose of nominating candidates for electors of President and Vice-President, for Governor and Lieut. Governor, and for such other State Officers as are to be chosen by general ticket at the next fall election.

Resolved, That the State Convention be held at Utica on the 13th day of September next at 12 o'clock, M.

They are confident that the democracy of the state will see in this simply an act which was expected at their hands, and which it would have been a dereliction of duty in them to have omitted, nor can they doubt that the attachment of the party to its regular routine of nomination heretofore

observed will rise above the whinings of factious discontent, which may seek to raise a doubt as to the regularity of the convention.

The high character of the offices to be filled—the importance of a judicious selection of candidates in order to secure success—will no doubt ensure a full and faithful representation of the democracy; and the warning of the past will doubtless prevent the bestowal of confidence upon such as have heretofore sought it only to betray.

Since we left our homes to enter upon our duties here, a delegated convention of the democracy of the State, convened in strict accordance with the usages of the party, by the democratic members of the last Legislature, assembled at Utica on the 16th of February last, which, for the personal and political character of its members, their ability, zeal and patriotism, as well as in its official proceedings, may well compare with any that ever assembled in this State. Held at mid-winter, there were, nevertheless, but three counties in the whole State unrepresented, and while the full delegation which attended gives the best evidence of the confidence of the democracy in its regularity, and its published proceedings give the best evidence of its wisdom and political soundness, we cannot refrain from adding an expression of our entire conviction of the propriety of its inception, and the excellence of its conclusions.

That assemblage appointed a delegation of thirty-six members to attend the Convention to be held in May next at Baltimore for the nomination of President and Vice President of the United States, and, whatever state of things may be there presented, they will but illy reflect the spirit of the convention which nominated them, and the sentiment of their mass constituency, if they do not unyieldingly claim to represent them without co-rival in that body, and fully assert and firmly maintain under any and all circumstances, the principles, the rights, and the honor of the Democracy of New York. While so much is required of them in the discharge of their duty as delegates, their character affords an assurance that their whole duty will be performed.

The present position of the democratic party in this State claims the serious consideration of all those who feel any attachment to its principles, or concern for their perpetuity.

We entered into the political canvass of 1844 united in our principles, under leaders whose lives commended them to our confidence; the result was the election of our candidates for the offices of governor and lieutenant-governor—a large majority in both branches of the Legislature—a respectable majority of the congressional delegation, and if anything further were wanting to show our proper organization and great efficiency, it was furnished in the fact that we gave a majority of some six thousand for the present national executive. At the expiration of two years we find our congressional delegation reduced to a meagre minority, a governor of the federal party elected by

a large majority, and a third year throws the whole legislative power, by an overwhelming majority, into the hands of our opponents. 2 The same party which gave the President the voice of this State could not bring him within one hundred thousand votes of any respectable opponent, and a portion of that party itself discarding all its usages and forms of action, have formed a separate and complete organization, under the name of "Hunkers," enjoying the whole patronage of the federal government—professing to act under its advisement, are now assailing the men and the principles of the party they have left, with a bitterness and recklessness unparalleled in the annals of party controversy.

That it was deemed advisable by the administration at Washington to remodel the democratic party in this State, by changing its direction, without impairing its efficiency, is made apparent by the neglect of those who enjoyed the confidence of the democracy, and by the bestowal of its patronage upon such as had received few if any marks of popular favor; that the attempt has been eminently unsuccessful, the meagre list of hirelings enlisted for this purpose most conclusively shows.

Unable to control the action of the democratic party, they have formally withdrawn from it, and for the time have perhaps reduced it to a minority in the State. That this secession is to be regretted we cannot with truth admit, the seceders consisting principally of those whose adherence to us has been simply a matter of pecuniary interest, and whose departure has been occasioned by the same considerations. But whether desirable or not, such is the fact, and they hold in relation to the democratic party a position as antagonistic in organization and in principle as the federal party itself. That the democratic party will rise from this temporary minority, as it has before done, by the excellence of its principles, purified and strengthened by the departure of those who have so long brought odium upon its doctrines, no man can doubt; and so widespread and all-pervading is this opinion among the masses of the democracy, that we feel constrained sincerely to declare, that from the best information we have been able to obtain from a free interchange of opinion with each other, and with such intelligent democrats as have visited the capitol during the present session of the Legislature, that so far is the democracy from desiring a union with this new party, that every attempt to effect it would be considered a corrupt arrangement among party leaders, for their own selfish purposes, and would be repudiated with an unanimity and a contempt which could scarcely be exceeded by formally uniting with the federal party itself.

Before entering upon the main topic of this address, we desire to refer briefly to two measures of reform which the triumph of the Democratic party of the nation in 1844 has secured to the people. A protracted struggle between privilege on the one hand and freedom on the other, resulted, in 1846, in the triumph of the latter in the substitution of a revenue policy, calculated to relieve the burdens of labor from a system falsely denominated protective, whose operation has been to oppress labor

and take from its mouth the bread it had earned. The advance towards commercial freedom, made by the Tariff law of 1846, was a great victory for liberal principles, the consequences of which are seen every where in the increasing prosperity of agricultural, commercial and mechanical industry. With her boundless resources and extraordinary facilities for traffic, presented by her great natural and artificial channels of trade, New York wants freedom—freedom from restrictive taxation. Give her that and she can protect herself. It is sometimes suggested that the tariff law referred to cannot produce revenue sufficient to meet the heavy engagements of the federal government incident to a state of war. If this is true, it does not follow that industry alone should be taxed to meet extraordinary expenditures, as it would be, to a great extent, by the increase of duties on the commodities consumed by the productive classes. In public affairs, as in common life, the true course to adopt when expenditure exceeds income, is retrenchment. Cut down the expenditures, abolish unnecessary offices and salaries, restore simplicity and economy into the administration of the government. This is the remedy which experience has always shown to be practicable and efficient.

When we remember that the present scale of duties on importations is high compared with the tariff sanctioned by the fathers of the republic, we cannot but express the hope that all agitation of the public mind, with a view to restore the exploded system of protective taxation, has forever ceased. The adoption of the Independent Treasury system by the 29th Congress, was another important measure of safe progress in conformity with sound principles of political economy. If adhered to in the spirit and purpose in which it was adopted, it will, gradually, but certainly, restore the currency of the Constitution—gold and silver—and replace the present frail and explosive system of exclusive paper currency with coin, or paper actually representing and redeemable in coin. The fraudulent scheme of bank paper promising to do the impossible, must have its day and must have its end. Its exaction and oppressions of labor will one day become apparent, and then, like all other devices to cheat and defraud mankind—this the greatest of them all—must yield to the demands of justice. But its hour has not yet come. The failure of eleven Safety Fund and twenty-six free banks, has not yet taught our legislators wisdom. They wait for a sadder experience, and they will have it.

We cannot but congratulate you that the war which has for two years been waged between our country and Mexico, is likely to be brought to a speedy and honorable termination. The conflict of nations in the field is at the very best a calamity which every humane heart must deplore, and which it is the duty of every government to avoid so long as it may be avoided consistently with the interests and honor of the State, but no people can long submit to acts of aggression by another without a forfeiture of that dignity and character which challenges respect, and which is the only title to equality and consideration in the intercourse of nations.

All our varied relations with Mexico have been honorable to our country. Our promptness to acknowledge her independence—our forbearance under wrongs inflicted upon our citizens—the temper of our negotiations—the triumphant advance of our armies through many a hard fought field, to the gates of her Capital, ever bearing aloft the olive branch amid the very smoke and din of battle, demands the respect of the civilized world.

It is deeply to be regretted that attempts should have been made to throw the various questions arising out of the commencement and conduct of the Mexican war into the arena of political strife. However we may differ at home, every lover of his country must desire that we should be known abroad as one and undivided. That being at war, the only question should be how it would best be brought to an honorable conclusion. That, however, has not been the case. Such circumstances in the progress of the war as seemed available for party purposes, have been eagerly seized upon, and many whose party zeal overbalanced their patriotism, have not hesitated to embark in a systematic attempt to wound the executive administration, even through the bleeding sides of their own country. Especially is it to be regretted that an eminent statesman of the southwest should have stepped from that retirement which he has so long affected to desire, and which the people have repeatedly expressed their willingness that he should enjoy, to sound the rallying cry for the great and powerful party of which he is the acknowledged head, to array themselves against their own country, and in effect if not in intent, to prolong the contest and aggravate its horrors, by paralyzing the action of our armies abroad, and stimulating to renewed energy those of the enemy.

The promptitude and heartiness with which this cry has been echoed back from a thousand federal presses to the Vatican of Lexington from which the decree issued—the zeal with which the “instructions” have been “bettered” by the resolutions adopted by the Legislature of our own State, leave no room to doubt that the Mexican war is to be one of the principal elements in the next Presidential campaign. To suppose that the issue thus tendered would be declined, were to question the patriotism of the democracy of the country—would be saying that democrats at home were unwilling to sustain by argument what democrats abroad had accomplished by arms.

But while the existence of war demands an united support of our country during its continuance, the return of peace may bring with it questions whose importance demands a full discussion, and the settlement of which may require the prudent councils of our wisest statesmen.

It appears to be conceded upon all hands that whenever peace may take place, one of its conditions is necessarily to be the cession of territory by Mexico to the United States. Such territory, whatever its extent may be, is now free from the pollution of Slavery, and the questions which will arise by its annexation will be, whether the mere act of cession to the United States of America, “by

the Grace of God, Free and Independent," changes it from a land of freedom to a land of slaves and if not, whether such change should be made by any subsequent act of the National Legislature.

The subject of excluding slavery from territories of the United States where it does not now exist, has for some time past engaged the attention of the people of this country; and the present Legislature has instructed the Senators and requested the Representatives of this State in Congress, to procure, if possible, the insertion of a provision securing this object in any act which may be passed by Congress for the erection of a Territorial government.

The position of the Republicans of this State was correctly defined at the recent Democratic Convention held at Utica, in pursuance of established usage, to send thirty-six delegates to represent this State in a National Convention, for the nomination of Democratic candidates for the offices of President and Vice-President of the United States.

These positions were, FIRST—That the principle of the ordinance of 1787, by which the Institution of Slavery was excluded from all the unsettled territories then owned by the United States, whether derived from Slave or Free States, should be applied to Oregon and such portions of Mexico as may be ceded to the United States, whenever in pursuance of the invariable usage of the Federal Government, Territorial governments are established for them by Congress: And, SECOND—That sensible of the difficulty of maintaining the organization of the Republican party of the Union, as it has hitherto existed, if those who take different sides on this exciting question should insist upon a declared conformity to their respective opinions on the part of the candidates for the Presidency, the Democracy of New York had never made this a test question, and felt called upon to apprise their Southern brethren who persisted in doing so, what would be the inevitable effect of such action.

In the justness and liberality of these positions, it might well have been believed true Democrats in all sections of the Union could cordially concur. And although the views of the Utica Convention, expressed with marked moderation and a commendable regard for the feelings of our Southern brethren, have not received the publicity to which we supposed them entitled on every principle of justice and fair dealing, they seem to have attracted a considerable share of public attention, and to have met with a reception as unexpected to us as it was undeserved.

The Democrats of Alabama have since assembled in State Convention, for the purpose of sending delegates to the same National Convention. They have adopted resolutions summarily denying the power of Congress or the people of the territory, either by direct legislation or thro' the action of a Territorial legislature, to prohibit the introduction of slaves into territories now free, and affirming

that such prohibition can only be made by a State Constitution framed by the people of the territory preparatory to their admission into the Union as a State.

In the meantime, they insist that those who choose to do so may rightfully settle the territory in question with a slave population. To enforce these positions, they pledge themselves to the country and to each other, under no political necessity whatever, to support for the office of President or Vice-President any person who shall not be openly and avowedly opposed to either of these forms of excluding slavery from the territories of the United States, which they denounce in their resolutions as being alike in violation of the Constitution and of the just and equal rights of the citizens of the slave-holding States. They also instruct and bind the delegates they select to the National Convention, to vote for no man for either of those places who will not unequivocally avow himself to be so opposed. The same positions have since been re-affirmed by the Democratic State Convention in Virginia, assembled to select delegates to the National Convention. And the proscribing decree against all who will not come forward and subscribe the creed sought to be enforced, is referred to with apparent enthusiasm as "the noble resolution of Alabama."

And the Democracy of Florida, one of the youngest States in the Union, in selecting their delegates to the National Convention, have within a few days, in a manner at least as exceptionable, assumed similar grounds—seeming to be determined that the Democracy of New York should re-assert their principles, or forever hereafter be foreclosed by their silence. No reasons have been offered by either Convention to sustain the positions thus assumed. And the people of the North have thus not even been afforded, so far as we have observed, the satisfaction of knowing the grounds upon which this ostracism has been pronounced.

Nay, even the sensibility which we should expect to have found awakened by the supposed necessity for so abrupt a severance of ancient and honorable political ties, seems not to have been aroused in the least degree on the part of old political associates who have found themselves forced to so harsh a termination of intercourse.

We shall leave them to judge, as they are abundantly able to do, what is the appropriate course for them to pursue. Even more, we are content that our Southern friends shall stand fully justified, if we are unable to show the fairness and constitutionality of the course pursued or advocated by the Democrats of this State in regard to the entire subject of Slavery. Vitally important as is the exclusion of Slavery from territory now free, we do not desire it to be effected thro' the exercise of any doubtful power of the Constitution.

The founders of the Republic earnestly and actively desired to restrict the spread of slavery. The Constitution of the United States was the second great work of those eminent statesmen and

patriots. It aimed to give the fullest extension of freedom to man, that was consistent with the actual and inevitable condition of their beloved country. While it was framing, the Old Congress of the Confederation were in session under their eyes, and engaged in the noble enterprise of excluding Slavery from all the territories which were then in the undisputed possession of the United States. If, then, the framers of the Constitution, penetrated with the evils of slavery, anxious for its limitation, amelioration and eventual abolition, having before them a Congress saving from this evil all the territory which the United States then owned, were so short-sighted or indifferent as not to provide for carrying forward this good work in regard to future acquisitions, let the humiliating confession be made to the world.

We invite to our shores the children of labor and the votaries of liberty, from every clime, by holding out to them the promise of an equal participation in the blessings of free institutions—we receive accessions to our territory of entire States, and consent to their admission into our glorious Union, under the impression that the enlargement of our national boundary is but another term for an extension of the area of Freedom. If this be a delusion, as it is if those acquisitions may be made the abode of slavery, good faith demands that the delusion should be acknowledged. We have acted upon the belief that the framers of the Constitution made ample provision for the adoption of every measure that might become necessary to secure the true happiness of all the people that should seek a shelter under the institutions to which our glorious revolution gave birth. Amongst the first and greatest of these is the securing to the white laborer a home and an honorable station in all the free territories that the United States may possess or acquire. To do this, we believe it indispensable that black slaves shall be excluded therefrom. And we entertain no doubt that this object can properly and constitutionally be effected in the mode we have instructed our Senators and requested our Representatives to pursue. We can well conceive that honest men may have doubted the policy of seeking the accomplishment of this object by attaching a proviso to a bill appropriating money for the purchase of territory, or by its insertion in a treaty by which such purchase was effected. They might suppose that in either of these modes the great object of extending our territory would be embarrassed, whilst the greater object of extending freedom could be otherwise secured. We know, too, that a cover was thus furnished to the false-hearted men of the North, who are operated upon by Federal patronage and a factious desire to prostrate the just influence of our State, under which without directly meeting the great question of Freedom itself, they might shelter themselves by the pretence that the one provision was an unnecessary abstraction, because new territory might not be acquired, and that the other was unattainable, because no treaty containing it could secure a ratification.

We can, therefore, well appreciate the conciliatory disposition which induced the Democrats assembled at Herkimer so far to modify their position on this subject as simply to insist upon a

guarantee that territory of the United States then free should remain so until its inhabitants formed a State Constitution for themselves—leaving to such inhabitants entire liberty at such time to choose freedom or slavery. This compromise was indicative of the forbearance which has always eminently characterized the conduct of Democrats, who are ever tolerant of an honest difference of opinion, and who never jeopard the noble ends they pursue, by any unnecessary sternness in regard to details not essential to their success.

The question now meets us in a practical form. Oregon has remained for years without a territorial government, and, its people petition Congress for this protection. New Mexico and California are in the possession of the United States never to be surrendered, and the President calls upon Congress to organize territorial governments over them. These vast regions are now free from the evil of Slavery: and we who propose to insert in the acts for their government a provision securing to them this exemption until they shall become States, are told—not that it is too early, not that it is unnecessary—not that it is an abstraction, not that we may lose them—not that we are embarrassing a just war in which the government is engaged, but we are told that our project finds no warrant in the Constitution, and that our advocacy of it has subjected us to the pains and penalties of excommunication from the Democratic family. No resident of a free state would, we think, venture to claim that the establishment of slavery at this day, in territories of the United States where it does not now exist, would be either wise or expedient. Not even the allurements of the Presidency could, we hope, induce an adhesion to a heresy so revolting. The extent to which the public men of the North have been induced to advance towards the South upon this question has been the invention of a theory that the people of the territories themselves, have the right to elect whether Slavery shall or shall not exist amongst them before they are organized into states, but that Congress has no power over the subject. Experience has shown that under such a rule, slave states could and probably would be created: and those citizens who were willing thus to suffer this evil to be extended, doubtless supposed that their views would be acceptable to the slaveholding population. But the reference we have already made to the proceedings of Alabama, Virginia and Florida, shows that even this theory has fallen under the same condemnation which has been pronounced upon every other that did not concede the absolute right of the Slaveholder to settle with his slaves upon free soil. The inventors and advocates of this theory, therefore, though manifesting a condescension which would be commendable in a good cause, have not only failed to secure the favor of our Southern brethren, but have been unable to protect themselves any more than us from political ostracism. Slaveholders claim a right independent of any action of Congress, or of the people of the territories, to hold slaves in a free territory. They concede, that the people of the territory, in forming a constitution prior to their admission as a State, may prohibit Slavery, but deny their power to do so otherwise. The reason for this refined distinction as to the constitutional power of the same people, has not been assigned; and though the effect of the distinction in securing

the propagation of slavery and its permanent establishment is obvious, the ground on which it rests cannot be discovered. That the position must be maintained by those who wish to uphold the institution of slavery, is apparent from the fact, that human slavery cannot be sustained upon any principle of natural justice or national law, and an admission that power over the subject is not vested in those who form State constitutions would strike at the root of the evil, and proclaim freedom to the slave through the length and breadth of the land.

The assertion then, of a want of Constitutional power in Congress to prohibit the original establishment of slavery in territories now free, is the last entrenchment of the propagandists of slavery. It is due to them and to ourselves, to examine it with care.

If there were doubt on the face of the Constitution, the disposition of its framers and their advisers upon the general subject, would be entitled to great weight in its construction. The truly exalted sentiment expressed by the founders of the government in regard to Slavery, and their unremitted efforts to bring its existence in the United States as far as practicable, into harmony with the spirit of the revolution—have been justly described in the admirable address of the recent Democratic State Convention. As there was no practicable way to remove it altogether, they endeavored to accomplish their object by measures which secured the amelioration of its condition, the prevention of its increase by importation, and its spread into territories which it had not yet reached. In these patriotic and philanthropic efforts, the truth of history attests that the statesmen of the South were, as it was obviously proper that they should be, the most efficient; and among them those of Virginia were preeminently so. Nor is it by any means a forced inference, that the very extraordinary political precedence which has ever since been awarded to the statesmen of Virginia, not only by their cotemporaries of the South but of the whole Union, is in no small degree to be attributed to their early, able, enlightened and consistent advocacy of this noble project. We might fill a volume with the exhibitions of these feelings on their part, but we have only space for a few.

The Father of his country, who was President of the Convention, in a letter to Robert Morris says, "I can only say there is not a man living who wishes more sincerely than I do to see a plan adopted for the abolition of it (Slavery): but there is only one proper and effectual mode by which it can be accomplished, and that is by the legislative authority, and this, so far as my suffrage will go, shall not be wanting."

Mr. Jefferson, although not a member of the Convention, exerted at the time an influence over public opinion, scarcely second to that of Washington, and like that statesman, though a planter and a Slaveholder, never forgot that he was a philanthropist and patriot. In his original draft of the Declaration of Independence, when denouncing the King of Great Britain for the encouragement he had given the slave-trade, he among other equally severe invectives, charges him with having

“waged a cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him.” “This piratical warfare, (he said) the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain determined to keep up a market where MEN should be bought and sold—he has prostituted his negative for suppressing any legislative attempt to restrain this execrable traffic.”

Patrick Henry said, “I believe a time will come when an opportunity will be offered to abolish this lamentable evil. Every thing we can do is to improve it if it happens in our day; if not, let us transmit to our descendants, together with our slaves, a pity for their unhappy lot, and our abhorrence of slavery.”

Mr. Madison, speaking in one of the numbers of the Federalist, of the restriction upon the power of Congress, says: “It were doubtless to be wished that the power to prohibit the importation of slaves had not been postponed until 1808, or rather that it had been suffered to have immediate operation. But it is not difficult to account either for the restriction on the General Government, or for the manner in which the whole clause was expressed. It ought, however, to be considered a great point gained in favor of humanity, that a period of twenty years may terminate forever within these States, a traffic which has so long and so loudly upbraided the barbarism of Modern Policy: that within that period it will receive a considerable discouragement from the Federal Government.”

Mr. Monroe said: “We have found that this evil has preyed upon the very vitals of the Union and has been prejudicial to all the States, in which it has existed.”

George Mason, speaking of the Slave-trade, said in the Virginia Convention: “Under the Royal Government, this evil was looked upon as a great oppression, and many attempts were made to prevent it, but the interests of the African Merchants prevented its prohibition. No sooner did the Revolution take place, than it was thought of. It was one of the great causes of our separation from Great Britain. Its exclusion has been a principal object of this State, and most of the States of the Union. * * * As much as I value the Union of the States, I would not admit the Southern States into this Union, unless they agreed to the discontinuance of this disgraceful trade, because it would bring weakness and not strength into the Union.”

It was under the prevalence of such feeling at the South, and with but one sentiment on the part of the Northern members as well in Congress as the Convention, with the venerable Franklin at the head, that the exclusion of slaves in the language of Mr. Jefferson's particular friend and confidant, George Mason, was immediately “thought of at the close of the Revolution.” The cessions of their unsettled lands to the Federal Government by the States was soon in progress, and the exclusion of slaves from them, the first action that was sought for in regard to them. The cession by Virginia

of the North Western Territory, out of which the States of Ohio, Michigan, Indiana, Illinois and Wisconsin have since been formed, was no sooner made than Mr. Jefferson, in connection with Messrs. Chase and Howell introduced into the old Congress of the Confederation, his celebrated resolution applicable *to the States to be formed out of said territory* in these words:

Resolved, That after the year 1900 of the Christian era, there shall be neither slavery nor involuntary servitude *in any of the said states* otherwise than in punishment of crime, whereof the party shall have been duly convicted to have been personally guilty.

The initiative thus taken, the matter went forward until the passage of the ordinance of July, 1787, by which the introduction of slavery was forever excluded from all the territories then in the undisputed possession of the United States, by far the greater part of which had been ceded by a slave state. The Convention to form a Federal Constitution had commenced its sitting in May preceding, and was then in session at the same place. Seeing what Congress had enacted in respect to the territories then owned by the United States, the Convention promptly forwarded the good work by giving its direct sanction to a prohibition of the introduction of slaves into the states of the Confederacy from abroad after a day named. Nor was this all that it did in furtherance of the great object which Congress and the people had in view in regard to the institution of slavery. The articles of Confederation did not contain authority for the progressive admission of new States into the Union and its authority over territories was at best imperfect. It was consequently questioned whether a ratification of the ordinance of 1787 by Congress, under the new Constitution, was not necessary to its validity. Such ratification it received at its first session. This circumstance served also to remind the Convention of the necessity of remedying the defect in the articles of the Confederation by authorizing an indefinite admission of new States, and giving to Congress general power to legislate for the territories out of which they might be formed. The first was accomplished by providing that "new States may be admitted by the Congress into the Union," and the second by declaring in the next clause in the section that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territories or other property of the U. States."

This authority, it will be recollected, is given to *Congress*. Had it been entrusted to the executive or judicial department of the Government, questions might have arisen as to the manner of its exercise. But Congress is vested with the legislative power of the government only. It acts by the passage of laws. Authority to it to prescribe "rules and regulations" respecting the territories, therefore, if there could be a doubt in any case of the signification of the terms, is necessarily a power to legislate for them; and the character of the legislation intended, is distinctly pointed out by the use of terms always employed to describe laws touching particular and private interests, in their minutest details, as well as comprehending government itself. Never was the power of language

in the hands of those who are masters of the art, more strikingly displayed, than by the framers of the Constitution. Mr. Madison and Mr. Morris are well understood to have contributed their full share to the triumph of the Convention in this regard. The terms “rules and regulations” used in regard to territories, were employed in the distribution and investment of legislative power, when the power to be conferred was intended to be general and paramount. Power was given to Congress—to *regulate* commerce with foreign nations—to make *rules* concerning captures, &c.—to make *rules* for the government and *regulation* of the land and naval forces—to alter State *regulations* in respect to the time, place and manner of holding elections—to coin money and *regulate* the value thereof. They were forbidden to give preference by any *regulation* of commerce to the ports of one State over another, and the appellate jurisdiction of the supreme court in certain cases was made subject to such *regulation* as Congress should make. It is not necessary to say that the intention was, and that the uniform practice under the Constitution has been to carry out all these powers, by the legislation of Congress. So in like manner Congress was to have power to dispose of and make all necessary *rules* and *regulations* respecting the *territory* or other property belonging to the United States. To give the widest scope to the legislative power of Congress over the territories, both 7 terms are used, viz: *rules* and *regulations*. In respect to the seat of government, forts, magazines, arsenals, &c, the power of *exclusive legislation* was given in terms, because it was necessary to divest and exclude an existing power of State Legislation. No such necessity existed in regard to the territories, and hence the use of the general terms employed in other parts of the Constitution to confer legislative power. Those used in regard to territorial legislation, were not only the most general, extending to every thing that was *needful* and *respected* the territory, but as appears on the face of the Constitution itself, the term *regulations* was used by the Convention as synonymous with *laws* and for the purpose of describing *laws in regard to slavery*. In the section immediately preceding it is declared that “no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or *regulation therein*, be discharged,” &c. &c., thus directly referring to the laws of the State against slavery, under the description of State *regulations*.

In addition to the plain sense of the Convention, in the use of the terms *rules* and *regulations*, apparent upon the face of the Constitution, its history, and the whole current of proceeding under it, may be referred to as establishing the same position. Mr. Madison, as will be seen by a reference to the 38th number of the Federalist, was among those who doubted the power of Congress, under the Articles of Confederation, to legislate for the territories as was done by the ordinance of 1787, and in No. 43 will be found his full recognition of the fact that all necessary power to this end had been vested in Congress by the Constitution. The Journals of the Convention show the agency he had in securing that object. On the 18th of August, 1787, he submitted, in order to be referred to the committee of detail, the following powers as proper to be added, with others, to those of the general legislature, viz:

"1st. To dispose of the unappropriated lands of the United States.

"2d. To institute temporary governments for new states arising therein." And they were referred accordingly.

The Committee of Detail, in their Report, made provision for the admission of new States, but not for the disposition of the public lands or the establishment of Territorial governments. In the subsequent proceedings of the Convention on their Report, Mr. Morris moved that "the legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States"—which was agreed to. The whole subject was then referred to a committee of style and revision, of which Mr. Morris and Mr. Madison were members, and the article as it stands in the Constitution was reported by that committee, and finally adopted. Mr. Morris showed his own understanding of the term "regulation," by applying it only two days before to the clause of the Constitution prohibiting the States from laying imposts, &c. A very brief reference to the proceedings of Congress at the time, and for years afterwards, will show that those who took part in the Convention, as also their cotemporaries, invariably spoke of the power conferred by these terms as that of legislation; and what is still stronger, of legislation upon the subject of slavery. In the cession from North Carolina to the United States, the term is thus used in the act of cession, from which the following is an extract:

"Fourthly, that the territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits and advantages set forth in the ordinance of the late Congress for the government of the Western Territory of the United States—that is to say: whenever the Congress of the United States shall cause to be officially transmitted to the executive authority of this State an authenticated copy of the act to be passed by the Congress of the United States accepting the cession of territory made by virtue of this act, under the express conditions hereby specified, the said Congress shall at the same time assume the government of the said ceded territory, which they shall execute in a manner similar to that which they support in the territory West of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges which the people in the territory West of the Ohio enjoy. Provided always, that no REGULATION made or to be made by Congress shall tend to emancipate slaves."

Luther Martin, in his celebrated report to the legislature of Maryland of the proceedings of the Convention, which is so frequently referred to for explanation of its intentions, speaks of the enactments made and demanded upon the subject of slavery, and describes them as "regulations."

In July, 1790, petitions upon the subject of slavery and the slave trade were presented to Congress by the Quakers of Philadelphia and New York, and by Dr. Franklin, who was himself a prominent member of the Convention and President of a Pennsylvania society for the promotion of abolition. In the debate which took place in regard to their reference, the opposers and supporters of it thus referred to legislative provisions on the subject. Mr. Stone, of N. C., said he had not approved of the interference of Congress in this business. He thought that persons who were not interested ought not to interfere—such interferences savored very strongly of an intolerant spirit, and he could not suppose that any one of the States had a right to interfere in the internal REGULATIONS of another. States were not accountable to each other for their moral conduct.

Mr. Smith, of South Carolina, said—he applied these principles to the case in question, and asked whether the Constitution had, in express terms, vested the Congress with the powers of manumission, or whether it restrained the States from exercising that power, or whether there was any authority given to the Union with which the exercise of this right by any State would be inconsistent? If these questions were answered in the negative, it followed that Congress had not an exclusive right to the power of manumission. Had it a concurrent right with the States? No gentleman would assert it, because the absurdity was obvious. For a State REGULATION might differ from a Federal REGULATION, and one or the other must give way. As the laws of the United States were paramount to those of individual States, the Federal REGULATIONS would abrogate 8 those of the States, consequently the States would be divested of a power which it was evident they never had yielded, and might exercise whenever they thought proper.”

Roger Sherman desired the reference, “because (referring to the State laws) several States had already made some *regulations* upon the subject;” and in the report made upon the petitions, a report which being made exclusively by Northern men, and having received the deliberate sanction of the House for a long time, relieved all apprehension in the Slave States, in regard to interference, there occurs this language:

“Secondly—That Congress have no power to interfere in the emancipation of slaves, or in the treatment of them within any of the States—it remaining with the several States alone to provide any *regulation* therein which humanity and true policy might require.

“Thirdly—That Congress have authority to restrain the citizens of the United States from carrying on the slave trade, for the purpose of supplying foreigners with slaves, and of providing, by proper *regulations*, for the humane treatment during their passage of slaves imported by the said citizens into the States admitting such importation.”

But the proceedings upon these petitions are of far greater importance as affording us a solemn, full and explicit declaration of Mr. Madison, who had first introduced the subject of legislation for the Territories into the Convention, and was a prominent member of the Committee which reported the clause of the Constitution upon which the present question, has at this late day been raised. The reference of the petition was opposed upon the ground, that as Congress were prohibited from interfering with the slave-trade before 1808, they could do nothing in the matter. The subject occupied the attention of Congress for several days. Mr. Madison from the first, advised a silent acquiescence in the reference. On the second day, he felt himself obliged to come out and be more explicit, and in reply to the allegation that Congress could do nothing in the matter he said—"he admitted that Congress was restricted from taking measures to abolish the slave-trade, yet there were a variety of ways by which they could countenance the abolition of it, and thus might make some REGULATIONS respecting the introduction of them into the new States to be formed out of the Western Territories, different from what they could in the old settled States. He thought the subject worthy of consideration."

Another reporter gives Mr. Madison's remarks thus: He (Mr. Madison) adverted to the Western country, and to the cession of Georgia, in which Congress have certainly power to *regulate* the subject of slavery; which shows that gentlemen are mistaken in supposing that Congress cannot constitutionally interfere in the business, in any degree whatever. He was in favor of committing the petitions, and justified the measure by repeated precedents in the proceedings of the House."

This was the deliberate opinion of Mr. Madison pronounced in the hearing of several of his associates in the committee from the slave holding states, at the second session of Congress after the adoption of the Constitution. It would be a waste of time to enlarge upon the weight which is pre-eminently due to the opinion of such a man, and more particularly upon such a question. In Virginia certainly it would be superfluous as long at least as his celebrated report upon the Alien and Sedition Acts constitutes their text book on constitutional questions.

The views of the framers of the Constitution thus cited are confirmed by a reference to the expositions of approved commentators on the Constitution.

Rawle on the Constitution, 237, says:

"In these (Admiralty Jurisdiction Cases) the subjects are limited, but a general jurisdiction appertains to the United States over ceded territories or districts."

Story on the Constitution p. 195, 198:

"No one has ever doubted the authority of Congress to erect territorial governments within the territories of the United States under the general language of the clause 'to make all needful rules and regulations.' Indeed with the Ordinance of 1787 in the very view of the framers, as well as of the people of the states, it is impossible to doubt that such a power was deemed indispensable to the purposes of the cessions made by the States."

"The power of Congress over the public territory is clearly exclusive and universal, and their legislation is subject to no control; but is absolute and unlimited unless so far as it is affected by stipulations in cessions, or by the Ordinance of 1767, under which every part of it has been settled."

Not only, therefore, was this power of legislation given to Congress by the framers of the Constitution, deliberately, designedly and explicitly; not only has its existence been distinctly avowed by the most distinguished among the fathers of the constitution, (Mr. Madison,) and set forth as clear and indisputable by our most able writers upon public law, but its validity has also been solemnly confirmed by the decisions of our own Court of Last Resort, and by the Supreme Court of the United States. The language of our State Court of Errors in the case of *Williams vs The Bank of Michigan*, 7 Wendell R. 554, is, "All power possessed by the government of Michigan was derived from the act of Congress. Territories have no reserved power as in the case of states admitted into the Union; the authority of Congress is supreme and unlimited unless made otherwise by the cessions of lands composing those territories."

In the case of *McCullock vs. The State of Maryland*, decided in 1819, 4 Wheaton, 422, Chief Justice Marshall who delivered the opinion of the court, commenting on the authority of Congress to make laws for executing granted powers, refers in illustration to "the universal acquiescence in the construction which has been *uniformly* put on the third section of the fourth article of the constitution, and says: "the power to 'make all needful rules and regulations respecting the territory or other property belonging to the United States' is not more comprehensive than the power to make all laws which shall be necessary and proper for carrying into execution 'the powers of government,' yet all admit the constitutionality of a territorial government."

In the case of *The American Insurance Company vs. Canter*, decided in 1828, 1 Peters, 542, Chief Justice Marshall, who delivered the opinion of the court, commenting on the sixth article of the treaty ceding Florida to the United States, and declaring that its inhabitants are to be "admitted to the enjoyment of the privileges, rights, 9 and immunities of the citizens of the U. States," says "it is unnecessary to inquire whether this is not their condition, independent of stipulation. *They do not however participate in political power*: they do not share in the government till Florida shall become a State. In the mean time Florida continues to be a territory of the United States; governed by virtue of

that clause in the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property belonging to the United States.”

In the case of the *United States vs. Gratiot*, 14 Peter's 637, Judge Thompson, who delivered the opinion of the court, commenting on the power given to Congress by the fourth article, third section of the Constitution of the United States, says, “This power is vested in Congress without limitation; and has been considered the foundation upon which the territorial government rests. In the case of *McCulloch vs. the State of Maryland*, the Chief Justice, in giving the opinion of the court, speaking of this article and the power of Congress growing out of it, applies it to territorial government, and says, “all admit their Constitutionality.” And again, speaking of the cession of Florida, (in the case of the *American Insurance Company vs. Canter*) under the Treaty with Spain, he says that “Florida, until she shall become a *State* continues to be a territory of the United States, governed by that clause in the Constitution, which empowers Congress to make all needful rules and regulations respecting the territory or other property of the United States.”

These views have been carried out in the acts of the Federal government from its commencement to the present day without dispute or exception.

In 1798, an act was passed authorizing the President (Adams) to establish a territorial government for the Mississippi Territory, in all respects similar to that established for the North-Western Territory in 1787, except the clause against Slavery. To show the extent of the power of Legislation over Territories exercised by Congress without dispute, it will not be amiss to allude to some of the provisions of the ordinance of 1787, which were here made law in Mississippi. It regulated, first, descents; second, rights of dower; third, devises; fourth, conveyances; fifth, religious freedom; sixth, the right of habeas corpus, and trial by jury, &c., &c. It was under an act of Congress prescribing the rights and duties of parties in these respects that the Mississippi Territory was settled and continued until its admission as a State. But this was not all. It contained a clause prohibiting the introduction of slaves from abroad under severe penalties, and besides declaring the slave so introduced to be free. This was, it will be perceived, ten years before Congress had a right to pass a similar law applicable to the States.

In the year 1800, a territorial government was established for the Territory (now State) of Indiana, and the provisions of the ordinance of 1787, including that against slavery, was applied to it. In 1804, a territorial government was established for the Territory of Orleans, a portion of Louisiana, with legislative provisions having the strongest bearing upon this question. The power of the territorial legislature was to extend to all the rightful subjects of legislation—the law respecting fugitives from justice, and persons escaping from their masters, the law prohibiting the carrying on the slave-trade from the ports of the State to any foreign place, the act to prevent the importation of certain

persons into certain States, wherein, by the laws thereof their introduction is prohibited, were made applicable to the territory, and a special clause was inserted in the act, not only prohibiting any person from bringing slaves into the territory from abroad but extending so far as to *prohibit any person from bringing slaves into the territory from any port or place in the United States which had been imported into said State or place since 1798, under severe penalties*. It contains also the following provision: "And no slave or slaves shall directly or indirectly be introduced into said territory except by citizens of the United States, removing into such territory for actual settlement and being at the time of such removal, the bona fide owner of such slave or slaves" under heavy penalties. This bill was passed upon great consideration, and was supported by the Southern members with almost entire unanimity. The yeas and nays were taken in both houses on its final passage. In the Senate there were but three votes against it, and but one of them was given by a southern man. In the House of Representatives, but twenty-one, and not to exceed half a dozen of these were from the Slave States.

In 1805, a territorial government was established by Congress for Michigan, and in 1809 for Illinois, and the provisions of the ordinance of 1787 for the government of the north-western territory, were applied to them with other provisions, showing an unrestricted right of legislation claimed and exercised over them by Congress. A like government was established by Congress for Missouri, and it was declared by the act organizing it that the Territorial Legislature should have power to make all laws in all cases, civil and criminal, for the good government of the territory, not repugnant to or inconsistent with the constitution and *laws of the United States*.

In 1819, a like government was established for Arkansas with similar powers. In 1817, a like government was established for the territory of Alabama and the laws then enforced in Mississippi, including an express prohibition against the introduction of slaves into the territory from abroad, applied to the territory of Alabama by act of Congress.

In 1822, a like Government was established for Florida and legislative power extending to all "the rightful subjects of legislation" granted to it by act of Congress with a prohibition against the bringing of slaves into the territory from abroad.

In 1836, a like government was established for Wisconsin and by the act of Congress directing its organization, it is enacted that the "Legislative power of the territory shall extend to all rightful subjects of legislation," but laws interfering with certain enumerated interests of the United States to be null and of no effect. The ordinance of 1787, as well in regard to the rights and privileges it conferred as to its restrictions, including that against slavery are expressly applied to the territory. To this, a new feature in regard to the legislation of Congress for the territories, 10 is added, by a clause,

extending all the laws of the United States to the territory, so far as the same or any provision thereof may be applicable.

In 1838, the territory of Iowa was organized upon principles in all respects similar.

May we not safely challenge an examination of our public archives for a more solemn recognition of any one principle than is here exhibited of that we contend for. What is it? 1st. A series of acts of Congress embracing the principle passed at short intervals during the last fifty years and approved by Presidents Washington, Adams, Jefferson, Madison, Monroe, Jackson, and Van Buren; acts, to which it would have been their sworn duty to object if they had doubted their constitutionality. 2d. Acts of a character not less solemn than that of organizing the Government, prescribing the rights and duties, personal and political, regulating the estates, their descent and the manner of disposing of them, of the inhabitants of eleven territories, nine of which have actually become States and members of the confederacy, and the remaining two are virtually such. 3d. Acts, in six of which, including the provision for Ohio, the existence of slavery in the territories was prohibited expressly and forever; and in all of which, with one exception, express enactments were made equally asserting the constitutional power in Congress of legislative control over slavery in the territories. Yet strange to say, notwithstanding this array of authority derived from the clear language of the constitution, its harmony with similar provisions in respect to which there has never been any dispute, and with the known dispositions of its framers on the subject of slavery, the confirmation which the construction we give to it has derived from contemporaneous expositions, the opinions of our writers upon public law and the solemn decisions of our highest judicial tribunals all sustained by an exercise of the power, which in point, either of solemnity of the acts, general acquiescence, or long duration is without a parallel in our history, the existence of this power is now denied. Nay, more, that denial is made by our Southern associates in politics a basis of a proscription of their political brethren at the North, as despotic as it is unjust.

The Federal Constitution is truly a sacred instrument; by far the most important State paper that exists in the world. Its authors were not only men possessed of rare capacities, but were also pre-eminently patriotic. Coming victorious out of the noblest conflict that ever occupied the hearts and arms of men, the constitution, the second great work of their hands, received the impress of that magnanimous and fraternal spirit by which they had been actuated at every stage of the fiery ordeal through which they had been obliged to pass. The rights and interests and duties of all persons subject to their control, were severely scrutinized and to the utmost practical extent provided for with wisdom and justice. So well was the great task before them performed that the experience of more than half a century has discovered but little to be added to its provisions. The prolific source of unparalleled prosperity and happiness to our own country, it has stood proudly forth as the

day star of liberty to all the world; obscured for a season by selfish influences, its rays have slowly but gradually penetrated the recesses of arbitrary power. What American heart did not expand with pride and gratitude, when a prayer for institutions like those of the United States was the first voice that was heard in regenerated France at the close of that brief but fierce contest in which the tyrannical institutions of ages were in the twinkling of an eye, swept into the "receptacle of things lost on earth."

A Constitution which has become a subject of such mighty import, and the overthrow of which would fill the friends of human rights throughout the world with dismay and despair, cannot be too vigilantly guarded by those who have the happiness to enjoy its benefits. This revered instrument, the earliest, the ripest and best fruit of our glorious struggle for independence and freedom, contains already as many stipulations in support of slavery as our political fabric can sustain. Viewed in regard to the political and local interests of the members of the confederacy, it is too clear to admit of doubt that those which were the principal seats of slavery and in which it was most likely to continue, were not from that fact losers but gainers in the settlements of the Constitution. They have had an excess of members in the House of Representatives over the same number of electors in the free States more than sufficient to control the legislation of the government in most of the controverted questions of national policy which have existed since the establishment of the Constitution. The equivalent for this great advantage in the taxation, according to the same ratio, has not only proved insufficient, but has in practice wholly failed. No reflecting man can for a moment believe that if the terms of the Union were now to be readjusted on principles of abstract justice, this provision of the constitution would stand the slightest chance of adoption. But those who secured our liberties and formed our constitution made this stipulation also, and we their descendants will be the last to depart from it or to complain of its existence.—Knowing the condition of our Southern brethren in regard to this institution as perfectly, at the commencement of the revolution as at its close,—feeling that the creation of it by the mother country against the remonstrances of the colonists was one of the grounds of the revolution itself—and appreciating the difficulties and delay which must inevitably attend the removal of the evil, the framers of the Constitution made every necessary provision to protect the States in which it existed in the exercise of the fullest discretion over the subject within their own boundaries.—We respect the memories of those illustrious men for the sense of justice, the magnanimity and good faith which prompted this conduct.—Our reverence for their acts, and admiration for their characters, would not be so great, if, after achieving by the common toils and sacrifices the independence of the common country, those who were happily exempt: from this fatal fruit of British policy had denied to their less fortunate associates protection against dangerous and harrassing interferences from abroad, and had not referred the selection of the time and the method of removing the evil to those whose welfare is so deeply involved in the question.

We are aware that in the present improved state of the opinion of the civilized world on the subject of human slavery, this sentiment will be exposed to severe criticism. But those who dissent from it will do gross injustice to the great and good men who made those provisions, and to us who feel it to be our duty to abide by the stipulations which those provisions contain, if they assume that our patriotic forefathers were, or that we are in favor of slavery, still less of propagating it in lands which are now free. Notwithstanding the framers of the Constitution assented to such provisions, dictated by imperious necessity, their aversion to slavery was of the deepest character and was most strongly manifested by the representatives from the slave-holding States. The delicacy as well as the extent of this feeling is illustrated by the circumstance that, looking with characteristic foresight to the distant future—believing that the same Providence which had carried them through the perils of the revolutionary struggle, would in its own good time, and by methods and agencies which they could not discern, relieve their beloved country from the evils of slavery—and determined that when that happy period should arrive, the Constitution which they fondly hoped would be perpetual, should contain no trace of an institution so inconsistent with the great principles of human liberty and natural right, on which it was founded, they would nowhere, even in the provisions relating to the subject, suffer the words “slave” or “slavery,” or any terms recognizing the idea of property in human beings, to appear on the face of the Constitution. And we who are enjoying the inestimable benefits of their sacrifices and their success, had only to choose between the alternatives of adhering to or violating the pledges and compromises which they made virtually in their hour of peril and conflict, and ratified in the moment of their common triumph. We chose the former alternative, and have most faithfully discharged the obligations of our position. For many years have the fearless and honest hearted democracy of the North exposed themselves to political embarrassment and injury by their efforts to secure to their brethren of the South, of all parties, the enjoyment of the rights guaranteed by the Constitution. Nor have the people of the North generally been wanting in their duty, even according to the most generous construction of it, in this respect. When the agitation in this country which followed the emancipation in some of the islands of the West Indies, was supposed to tend to violent means or fanatical measures, the sympathy and support of the whole North, without distinction of party, were manifested by expressions of public sentiment, which for their explicitness, unanimity and enthusiasm are almost without a parallel, and which were certainly effectual to reassure the South of the entire fidelity of the mass of the Northern people to the guarantees of the Constitution. In these efforts to brighten the fraternal chain which binds the Union together, there were two instances in which the democratic party were carried farther than their local opponents, and quite as far as many of their firmest and best members could approve. The spirit of the revolution, the bill of rights, and the Constitution had invested no subjects with more of reverence and respect than the right of petition and the liberty of the press. Not ignorant of the advantage which they would thus give to their adversaries at home, but confiding in the

representations of danger to the peace and safety of the South from the sources complained of, they did not hesitate to sustain a rule of the House of Representatives as to the disposal of abolition petitions and a bill in regard to the transmission of inflammatory publications through the mail which were stigmatized with much plausibility and popular effect as inconsistent with those great and cherished rights. On a careful revision of the past, we are satisfied, and we believe that the judgment of impartial posterity will decide that if the Democracy of the North have erred at all, it has never been in not going sufficiently far to sustain their fellow citizens of the South.

It is under these circumstances, and with such claims upon the forbearance and the justice, not to say the gratitude of the South, that we are called upon to assume the extraordinary and untenable position which we have discussed. We are called upon to deny the constitutional power of Congress to prevent or prohibit slavery in any territory which is or may come within the jurisdiction of the federal government; to deny equally the constitutional power of the people of such territory, while in a territorial condition, to prohibit slavery; and to assert the constitutional right of any individual to go into any such territory and hold slaves there as effectually as he can do in any State where slavery is expressly authorised by law. Farther, as we have already shown, the doctrine could not be carried, without destroying the foundation of slavery itself, even in the states. This doctrine has been deliberately adopted and promulgated by the democratic conventions of Virginia, Alabama and Florida, and in many other forms by our southern brethren. And the democracy of the North are called upon also, to adopt it and make it a part of their political creed and an element of their issue with their political opponents in their own localities. We are called upon to repudiate as unconstitutional the power of Congress over the territories which has been exercised from the very foundation of the government, and under all administrations. We are called upon to deny all power in Congress which has the government of the territories, and in the people of the territories, to prohibit slavery, but to affirm the power of any one individual to establish it within the territories. No man is compelled to hold slaves even where slavery is expressly authorised by law; and if any man who chooses to do so, can hold slaves in territories, slavery is just as much established there as in the states where it is upheld by positive enactments.

The doctrine is, therefore, when plainly stated, that wherever the flag of the Union goes, it carries slavery with it; it overturns the local institutions, no matter how strongly entrenched in the legislation, the habits and affections of the people, if freedom be their fortunate condition, and establishes in its place slavery; it repeals the local laws, if they guarantee personal freedom to all, and authorises slavery. This doctrine we are required to adopt and advocate; nowhere found in the Constitution, repugnant to its spirit, and abhorrent as we have shown it to be to the 12 principles and convictions of the illustrious men who framed it, we are called upon to interpolate this new theory upon the Constitution as a sort of mystical common law not expressed, not implied in

any particular part, but to be inferred from the general nature of that instrument. We are called upon to do so by our ancient friends and allies with whom we have been long associated in the ties of political brotherhood; and for whom we have often made great efforts and sacrifices, and perilled our political existence at home. We are called upon to do so under the menace of political disfranchisement and degradation if we refuse at once to believe or profess to believe this new and startling doctrine. We are told that no one who does not make such professions, shall be allowed, as far as the political action and support of our old friends and associates can control the result, to receive the highest honors of the Republic; that our ancient and intimate association shall exist only for the purpose of allowing us to vote for candidates for the Presidency and Vice Presidency who hold their opinions and repudiate ours on this great question; but that it shall not exist for the purpose of allowing us to nominate or vote for, or elect a President or Vice President who shares with us our convictions, no matter if a majority of the party agree with us; and that our southern associates will, under no political necessity whatever, support any man who entertains the opinions which have, with unexampled unanimity, been expressed by the Conventions and Legislative Assemblies of nearly all the Northern States.

The Democracy of New York are wholly unwilling to believe that the unkind, ungenerous and unfraternal proceedings which it has been our painful duty to expose, emanated from the Democratic masses of the South. The high opinion we have ever cherished of their liberality and justice, as well as the hallowed recollection of a long continued, useful and honorable political association, forbid it. Were it otherwise, we should be obliged now to regard that connexion as forever dissolved, however painful might be this indispensable act of self-respect. We prefer to believe that the extraordinary pretence we have discussed is rather an excrescence which has sprung from the struggles of party leaders at the South for local ascendancy and through its influence for the control of federal politics. It is well known that a schism arose in the democratic ranks at the South towards the close of Mr. Madison's administration, was continued through that of Mr. Monroe, and still exists in almost every Southern state. Nor can it have been forgotten to what extent one of the sections which that schism produced sought to influence the North, by holding up to them the tempting lures of a Bank of the United States, internal improvements by the general government upon a gigantic scale, and may we not add a protective Tariff, and every other scheme which a latitudinarian construction of the Constitution would allow, and which might tempt the cupidity of a thriving commercial population. This attempt did not succeed. A large portion of the republicans of the South adhered to the doctrines in these respects, of Jefferson, as illustrated and enforced by Nathaniel Macon, Spencer Roane and their compatriots. Vast majorities of the Northern democrats made the cause advocated by these great and good men their own; and that contest was terminated by General Jackson's throwing the weight of his overshadowing popularity into the same scales. Soon thereafter, a new spirit appeared to have come over the dreams of many of our

Southern friends. They disavowed, with vehemence, the latitudinarian doctrines to which they were supposed to have been attached, and claimed to be regarded as among the strictest of the disciples of the State Right School of politics.

Slavery and its immunities, its privileges, its sanctities and its blessings, soon became the theme of their discourses; and to that era may be traced the origin of those doctrines which have since followed each other in such rapid and astounding succession. From that evil hour, also, those whom we regarded as the old school democrats of the South appeared to have entered in a race with their local opponents as to which should outstrip the other in defending and propagating slavery. Out of this ill-starred rivalry have sprung the extraordinary doctrines which we have brought to the test of truth and justice. We do not intend to pass upon the relative merits or demerits of the parties. It is well known that the feelings of the New York Democracy have been long and earnestly enlisted in behalf of one of the sections to which we have referred. It is due to candor to say, that the present position of things has unavoidably lessened this preference, as well as diminished their power with the masses here, to secure impartial justice to both. We ask them to believe that the principle of extending slavery to territories now free from it, can never be made acceptable to the freemen of the North, and assure them, in the most absolute confidence, that the few persons at the North who for sinister objects strive to make it so, will soon, very soon, be buried under a load of public obloquy in a grave from which there will be no resurrection.

The views which we have taken of the condition of the public mind at the South, and of the origin of the imperious demands made upon us, render it improper that we should reply to these demands in the language which their nature would seem to justify, and having shown how totally they are without warrant in the Constitution, we proceed to consider dispassionately the remaining grounds which have induced our old associates to put forth in the face of the country such extraordinary and unprecedented pretensions.

One of those grounds is, if we understand it aright, that inasmuch as many of them are by habit and necessity slaveholders, it will be an inconvenience and injury for them to settle in the new territories without their slaves; and that the exclusion of slavery from those territories is therefore unjust to them. The other ground is, that such an exclusion would be a reproach upon their present condition within their own states, and would be destructive of the equality to which they are entitled under the Constitution. And the principles of these objections are alike applicable to Oregon and to the territories which we have acquired or may acquire from Mexico.

Sensitive as our southern brethren are known to be to every thing which affects their honor, 13 can it be possible that they have so long habitually, and without objection, acquiesced in a course of legislation which can be justly regarded as a personal indignity to them as individuals or as a

class? For sixty years past, Congress has applied the restriction against slavery to territories of the United States, by solemn acts, in which the southern representatives were not only participants, but often leaders; it has done so without opposition or complaint, and in the case of territories which had not only been acquired by the joint expenditure of the blood and treasure of all the members of the confederacy, but which had been ceded to the United States by Virginia, and in which slavery legally existed. Under the confederation, in 1787, it applied that restriction to the whole northwestern territory. In 1800, it did so in regard to the territory of Indiana. In 1805, it did so in regard to that of Michigan. In 1809, it did so in regard to that of Illinois. In 1836, it did so in regard to that of Wisconsin. In 1838, it did so in regard to that of Iowa. Can it be believed that these repeated solemn acts could have been passed with such unanimity, and have been received with such general satisfaction, if an exclusion of slavery in the territories by act of Congress is in its nature, and necessarily, a reproach upon the character, domestic condition, equal rights, or constitutional immunities of the citizens of the slaveholding states? And by whom have the very territories subject to these restrictions, been settled? The tide of emigration has moved steadily to them from the slaveholding states. Thousands and tens of thousands have sold their slaves and gone to these abodes of free labor. Many such and more of their descendants, have represented and now represent the states formed from these territories in the Congress of the Union. Let any of these emigrants from the south be asked whether the idea of individual or sectional degradation of themselves or their fathers in consequence of the prohibition of slavery in the new home which they chose, ever occurred to them? Let them be asked also whether they regret having been compelled to exchange slave for free labor? We venture to say that with one accord they will answer both questions in the negative. The idea is one of modern suggestion, and sprang from the scheming brain of the politician, rather than from the unsophisticated hearts of the freemen of the west of south.

It being then very evident that there is no reasonable ground for offended pride on the part of our Southern brethren in the adoption of the measure under consideration, the true condition in other respects of the slaveholder, in regard to it, may be briefly stated. If he desires to remove to a new region, he may select that portion of the unsettled lands which have been recently attached to the United States, and which will for a long succession of years, afford ample room, a good soil, and a congenial climate for the employment of slave labor, or he may disposed of his slaves and go to the territories which are exempt from slavery, employ free labor, and enjoy every privilege and all the consideration which is possessed by any other citizen.

In regard to the question whether the necessity he would be under of making the exchange from slave to free labor, would be injurious to him, he is fortunately not without the authority of ample experience. The present condition of thousands of those who were once the owners of slaves, but

are now the inhabitants of the free states of the West, and the employers of free labor, will afford a true and conclusive answer.—If there be still any disadvantage which will result to him from the measure we advocate, let it be fairly stated and impartially weighed against the grave considerations which exist in favor of its adoption.

The immense Territory of Oregon, and that virtually acquired from Mexico, are now presented to Congress and the people in the same aspect as respects this question as was the Great North Western Territory to the Congress and people of 1787. That territory was then a wilderness; it now contains the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, which are all free states, and contain a population of between four and five millions.

They are large enough both in geographical extent and in population to constitute a great republic, and to maintain themselves against the world. The momentous question whether they should be free or slave States, was settled by the ordinance of 1787, and its subsequent enforcement by Congress under the Constitution. There can be no doubt that the great men who formed and favored the provision against slavery in that celebrated instrument, foresaw their rapid growth and future greatness. Georgia and North Carolina made the condition in their cessions of their vacant territories, that Congress should not impose on them the clause of the ordinance of 1787, which prohibits slavery; and Tennessee, Mississippi and Alabama, which were formed out of the territories ceded by them, subject to this condition are slave States. Virginia not only did not exact such a condition, but cheerfully supported that ordinance with the prohibition in it; and the States which have been formed out of the territory which was ceded by her, and became subject to the prohibition, are, and will forever remain free States. The difference between their conditions in this respect cannot be imputed in any considerable degree to a difference of climate; but must be ascribed to the legislation under which they were, during the period when they were settled and the character of their institutions formed.

Kentucky, one quarter of the whole population of which are slaves, and Ohio, which is an example of the most successful development of free labor, adjoin each other. The one is a slave, and the other is a free State, because of the different laws to which, while territories, they were subjected. They illustrate the controlling influence of legislation in shaping, in this respect, the character of communities; and they illustrate also the infinite superiority of free labor in advancing the prosperity of a State.

The settlement of the extensive domains of Oregon and California is now to be commenced in earnest; and they will, within the lives of many persons already in existence, be as numerous, perhaps, as thickly peopled as is now what was once the North Western Territory. The President has recommended that provision be made for their temporary government while they remain territories;

the duty of Congress and the necessities 14 of the inhabitants of these territories require that such provision be made. Upon the character of that provision in relation to slavery, it will, in all human probability, depend whether the States which are to spring up in this vast and fertile region, shall be free or slave States. The question has thus arisen in a practical form. It can no longer be evaded or postponed. It is upon us. We must decide it. Shall these vast communities be the creations of free or slave labor?

They cannot be both. If experience has conclusively established any one fact in political or natural history, it is, that free and slave labor, in the enlarged sense in which they must here be regarded, can not flourish under the same laws. Where labor is to a considerable extent committed to slaves, to labor becomes a badge of inferiority. The wealthy capitalists who own slaves, disdain manual labor, and the whites who are compelled to submit to it are regarded as having fallen below their natural condition in society. They cannot act on terms of equality with the masters for those social objects which in a community of equals educate, improve and refine all its members. In a word, society, as it is known in communities of freemen—with its schools and its various forms of voluntary association for common benefit, and mutual improvement, can be scarcely said to exist for them or their families. The free laborers are unwilling to work side by side with negro slaves; they are unwilling to share the evils of a condition so degraded and the deprivation of the society of their own class; and they emigrate with great reluctance, and in very small numbers, to communities in which labor is mainly performed by slaves. No candid and intelligent southerner will seriously controvert these facts. They have been demonstrated in the experience of the old States. With the exception of a few, and comparatively a very few, the white laborers, or in other words the poor of those states where slavery is more extensively prevalent, are object of commiseration and charity to the wealthy planter, and of contempt and scorn to the slaves.

The existence of slavery in our vast unsettled domains to a sufficient extent to give tone to society, will operate by the strongest motives which can or ought to affect the human mind to exclude free laborers from emigrating to those regions.—The planter who complains that he is excluded, if he cannot hold slaves there is, at most subjected to but an injury to his property even if such injury result at all. The free laborer on the other hand, if slavery be allowed, suffers not merely an inconsiderable pecuniary injury, but a sacrifice of all the cherished objects of social and political life—the degradation of himself, and of his wife and children, for whose sake, perhaps, he has encountered the trials and perils of emigration to an unsettled country; he incurs evils infinitely greater than those which excited our heroic ancestors to armed resistance. If then it be conceded that the introduction of slavery operates to exclude the free laborer, it must be admitted that the penalty by which the exclusion is enforced is infinitely more severe against the laborer in the one case than against the planter in the other. It ought to be borne in mind also, that the exclusion

operates upon a vastly greater number in the case of the free laborers than in that of the planters. It may be safely estimated that the annual increase of the free States alone is not less than four hundred thousands. The emigration from Germany, Ireland and other parts of Europe during the last year was above two hundred thousands. The resort to our shores of those who seek in our happy institutions and fertile soils a refuge from oppression and starvation at home has but commenced; and the emigration from the over populated countries of Europe to our vacant territories is probably destined in increased facilities of communication, to outstrip any anticipation and to form a great feature of our present age.—But without looking forward beyond the present, the increase of the population of the free States by birth and by immigration during the year past, cannot be less than six hundred thousand. To that vast number might properly be added the increase of the white population of the Southern States who do not hold slaves. But omitting them, how do the numbers of the probable emigration to our territories of the planters and free laborers compare? The whole number of those who hold slaves has been estimated not to exceed three hundred thousand. From these facts it may be safely inferred that the number of free laborers who will annually desire to improve their fortunes by removal to the territories, will be greater than the whole number of slaveholders in the United States.

Whether these free laborers shall be excluded from our unoccupied regions, or at least from large portions of them, will, as it did in relation to the adjacent States of Ohio and Kentucky, depend mainly upon the provision which Congress shall make in regard to slavery in organizing the governments of these territories. Let no one be deluded by supposing that slavery has not the capacity to occupy these territories to a sufficient extent to inflict upon their inhabitants the blight which attends free labor wherever that institution exists. Experience has shown the contrary. Moreover the slaveholders who may monopolize its soil and hold as property the men who till that soil will not of necessity come only from the present slaveholding States. They are unfortunately by no means the only persons who may be found willing to enjoy the supposed luxuries of the system, if countenanced by the law of the land. Let capital be invited to such investments by the policy of the government, and it will come from other States and perhaps from foreign countries; and the institution of slavery will not fail for the want of abettors. It is against the hundreds of thousands of our own descendants, who must earn their bread by the sweat of their brows, and hundreds of thousands of children of toil from other countries, who would annually seek a new home and a refuge from want and oppression in the vacant territories, that this unjust exclusion is sought to be enforced under the penalty of social and political degradation. Can it be that those statesmen who have shown such alacrity to turn their backs upon this great and growing interest can have considered its character and magnitude? Can it be that they have been mindful of the peculiar duty which our government owes to the laboring masses, to protect whom, in their rights to political and

social equality, and in the 15 secure enjoyment of the fruits of their industry, is at once its object and its pride?

From the first institution of government to the present time, there has been a struggle going on between capital and labor for a fair distribution of the profits resulting from their joint capacities. In the early stages of society, the advantage was altogether on the side of capital; but as education and intelligence are diffused, the tendency is stronger towards that just equality which all wise and good men desire to see established. And although capital providing and controlling every species of machinery has heretofore, in the main, directed that of government also, the true relation of the elements of production are beginning to be understood. Men's minds have every where turned, and will continue to be turned to the contemplation of the value of labor; and an enlightened sense of justice is inclining them to seek out the means of securing to him who labors a consideration in society, and a reward in the distribution of the proceeds of industry more adequate than his class have heretofore received. The truth that the wealth and power of a country consist in its labor, and that he who contributes most to its industry is the most useful among its benefactors, has become familiar. No where is this truth more evident, or should it be more respected—no where should the rights of the toiling masses be more distinctly appreciated and more amply protected than in our comparatively new but already great country. The increasing power of correct opinion on this subject, is illustrated by recent events in France. That great nation, which a few years ago, achieved a revolution, the whole fruits of which were a change of the title of their monarch from “King of France” to “King of the French,” and limiting hereditary titles of nobility to life estates, and which seemed content that the sovereign should remain master of all if only the symbols of his authority were less plainly visible, has just prostrated the institutions of ages. It had been the work of centuries in that country to impoverish and debase the children of industry, and enrich a favored few. Yet the system of which these were the objects, has been overthrown with the naked hands of the laboring masses, strengthened by the rising power of the great truth to which we have referred. And what is the first object to which the attention of the new government is directed? Why, to break down obstacles which had so long prevented the laboring classes from receiving the consideration and rewards to which they are equitably entitled.

And shall we, whose government was instituted to elevate and ennoble the laboring man, and has rested for sixty years in security and honor on his intelligence, dignity and integrity, now, in view of this glorious imitation abroad and entire success at home, abandon a policy in regard to slavery which has been pursued from the commencement of our government, and which is so vitally important to its true end and object? We shall be greatly deceived if those who have been tempted by the hope of evanescent honors or temporary advantages, to advocate so disastrous a change of policy, do not hereafter deeply regret their apostacy. The laboring classes, far more

respectable in this than in any other country, can pare comparatively little time for reading, and such truths as we have set forth are often slow in reaching them, but in the end do reach them, and are embraced with unyielding tenacity.—Thus it was with the plan for an Independent Treasury. All will remember the assaults which were made upon that measure by the selfish and the venal. The depreciation of the value of labor was prominent among the thousand evils which were predicted from its establishment.—Such misrepresentations deceived many, and election after election was lost in consequence. The truth at length reached the masses; and what man is found to raise his voice against the Independent Treasury? What other democratic measure has ever been adopted which neither a whig congress nor a whig legislature finds it safe to assail.

We have thus presented some of the prominent considerations, which have induced the Democracy of this State, to assume the position they now occupy on the subject of slavery, and have endeavored to reply with calmness and moderation to some of the grounds on which that position has been assailed. If we have been in any degree successful, we may claim to have shown that the views entertained by the Democrats of New York so far from presenting any excuse for their proscription by their political associates, are those which the highest obligations of constitutional liberty require them to maintain. They have sent, in conformity with established usage, thirty-six estimable and influential citizens to communicate their wishes in regard to the approaching Presidential election, to the representatives of the Democracy of other States, who are soon to assemble at Baltimore. Their desire is, kindly and dispassionately to confer with their brethren of the Union, in the hope of securing the safety and success of that great and patriotic party, at whose hands the cause of true freedom has uniformly received a strong, steady, and generally successful support. They regret to be apprized, that a design should exist in any quarter, to exclude their delegates from such conference, or to neutralize their voice by associating with them persons not delegated by the party, and not speaking its sentiments. We are conscientiously satisfied that there is no room for an honest difference of opinion in regard to the right of the Delegates selected by the Utica Convention to sit in the National Convention which is to assemble at Baltimore, for the nomination of Democratic candidates for President and Vice President. If a question is made as to their right, it must be decided not compromised. Those delegates should not be insulted by the request that they should yield one particle of the weight to which, as the sole representatives of the Democracy of this State, they are justly entitled. Expedients resorted to where no difference of opinion existed on either national questions or national candidates, and by which a decision of a controversy purely local was postponed until such difference should arise, can have no application to such case. Neither of the distinguished republicans selected by the Utica Convention to represent the democracy of this State, required the instructions of that body to know that perpetual disgrace would await him if he surrendered any portion of the high trust confided to him, and no instruction was therefore given.

The simple question, if any, which the Baltimore Convention will be called upon to decide, will be the exclusion or admission of those delegates; and it may be proper for us to add, that such decision appears to us of momentous importance, from our conviction that while past experience has shown that the Republicans of this State will submit to great injustice, for the vindication and establishment of their principles, the exclusion, actual or virtual, of their representatives, for the purpose of overthrowing their principles, is an imposition which would be fatal to those who should practice it.

Mr. Myers, from the same committee reported to the Caucus the following resolutions, which were unanimously adopted.

RESOLUTIONS.

“ Resolved, That while the Democracy of New York, will faithfully adhere to all the compromises of the Constitution, and maintain all the reserved Rights of the States—they declare—since the Crisis has arrived when that question must be met—their uncompromising Hostility to the Extension of Slavery into Territory now Free, which has been or may be Hereafter Acquired, by any action of the government of the United States.”

Resolved, That the late Democratic State Convention at Syracuse, called by the Legislative caucus for certain specified and defined objects, by the rejection of the above resolution which embodies the firm conviction of the democratic party on that subject, by its false and fraudulent organization, by its futile attempt to perpetuate its influence through the unauthorized creation of a central committee to supplant a regular and existing one, with powers unprecedented and unauthorized by usage or by reason, and thereby to supplant the very power to which it owed its own authority—nay, its very existence,—deserves the reprobation of every man who desires through regular democratic organization and usage to effect the triumph of democratic principles.

Resolved, That the late Convention at Utica, called by the time honored and undisputed authority of a Legislative caucus, not by a self-constituted body, but by men who had been invested with the representation of the democracy of the State, by the suffrages of its democratic electors—called not by a section of the party, but after fair discussion, in which all were heard and represented, and by a fair majority—not as a sectional measure, but as a middle ground of conciliation, where all might be represented, and the democratic principle that the will of the majority should govern, might be fairly applied, by its representatives of nearly the whole state, fairly called through the regular organization of the party in the several counties, by the character of its members, by the dignity and wisdom of its proceedings, and by its assertion of sound and pure democratic doctrines and

principles, merits the confidence of the democracy of the State.—That in its regularly nominated delegates to the national convention, we recognize the only legitimate representatives of the democratic party of this State in that body, and we cannot doubt or fear that the democracy of the Union will either reject that representation or nullify its power or influence by the joint admission of another antagonistic and factious and spurious body of men, pretending to represent and usurping the power of misrepresenting our party in the council of the National Convention.

Resolved, That in the inherent self-sustaining power of the principles of the democratic party we have unabated confidence and reliance, nor do we for a moment doubt that whatever of defeat or of disaster may be brought upon our party by any mercenary, designing and treacherous faction of its pretended friends, it will at an early day rise regenerated and invigorated from its temporary depression to fulfil its high destiny of advancing the progress of human liberty.

Resolved, That the chivalric daring and heroic devotion of our fellow citizens who have so nobly fought the battles of their country on the plains of Mexico, whether as volunteers or regulars, proves the capacity of our institutions to meet any emergency which may await us as a nation, and must teach other governments to respect alike our moderation and our prowess—that this war presents to us the unprecedented example of the peaceful citizen in a few weeks metamorphosed into the veteran soldier—patient alike of fatigue and of privation, and braving alike the onset of overwhelming numbers of disciplined foes, and the more dreadful attacks of tropical diseases, for the honor and glory of his country. That to those who fell and to those who survive, the country owes a sacred debt of gratitude, and that the relicts of the former and the persons of the latter are entitled to be cherished, protected and honored.

Resolved, That the shout of Liberty which, within a few days has come to us across the ocean, finds a hearty and ready response in every American bosom; that in the ancient kingdom of, France a Republic has sprung into existence in a single day upon the ruins of a monarchy, cannot but be a source of rejoicing to all who regard with interest the happiness of mankind, and it is a proud monument to the wisdom of those who established our own government, that what was but lately deemed an experiment, has become a model for the imitation of the older nations of the earth; from the wisdom, moderation and firmness of the Provisional Government of the French Republic, the very best effects are anticipated, and the firm hope entertained that the people of France may receive the same blessings from a Republican form of government, which we have experienced from our own.

It was then ordered that the address and resolutions be published, and the Caucus adjourned.

Saxton Smith,
John Fine,
James S. Whallon,
John G. Floyd,
John W. Betts,
Wm. M. Hawley,
Jared V. Peck,
Rufus Heaton,
O. C. Chamberlain,
Isaac Benedict,
Elos L. Winslow,
Elisha L. Saunders,
Thomas Charlock,
W. S. Smith,
James Little,
Benj. Maxson,
Abm. W. Toll,
John H. Bowie,
Chas. G. Myers,
Fleury Keith,



John Calhoun,
Platt Townsend,
John Kennedy,
Wm. Cobb.